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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/527,837

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Robin R. Gibson

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1922

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7590

09/24/2008

JONES DAY  
222 EAST 41ST ST  
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EXAMINER

TAYLOR II, JAMES W

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

09/24/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,837	<b>Applicant(s)</b> GIBSON ET AL.	
	<b>Examiner</b> James W. Taylor II	<b>Art Unit</b> 1796	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. All outstanding objections and rejections, except those maintained below, are withdrawn in light of applicant's amendment filed on 8/6/2008.
2. The text of those sections of Title 35 U.S. Code not included in this office action can be found in a prior office action.
3. No new grounds of rejection are set forth below, and therefore this rejection is properly made FINAL.

### ***Claim Rejections - 35 USC § 103***

4. Claims 15-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Spiller *et alli*(US 3,676,171) in view of Lepilleur *et alli* (US 6,306,945) or Lepilleur *et alli* in view of Spiller *et alli*.
5. This rejection is adequately set forth in pp. 2-6 from the office action mailed on 5/8/2008.
6. Further, the examiner would like to acknowledge that the office action dated 5/8/2008 has an error in the statement of rejection. Specifically, the claims rejected are 15, 17-27, and 29-38, which were intended to be claims 15-38. There are arguments explicitly relevant to claims 16 and 28 in the rejection (pp. 3-4) in said office action. Hence, it is clear that this is an error and the rejection was intended to encompass claims 16 and 28. The examiner also acknowledges that the applicant also noticed this error as the applicant addresses all claims 15-38 in his response to the earlier office action.

***Response to Arguments***

7. Applicant's arguments filed 8/6/2008 have been fully considered but they are not persuasive. Specifically, the applicant argues (i) the modified zeolites presented in Lepilleur are not equivalent to the conventional zeolites intended for the instant application, (ii) the modified zeolites would not be expected to be used as pigment agents, (iii) Lepilleur is solvated composition, and therefore the zeolite does not have less than 9% water, and (iv) Lepilleur in view of Spiller fails to teach a powdered composition.

8. Regarding argument (i), the standard for claim interpretation is "broadest reasonable interpretation". See MPEP 2111. The examiner notes that using this interpretation, "a zeolite" is a genus of compounds that encompasses any specific zeolites, such as modified zeolite or conventional zeolite. Further the open language utilized by the applicant (i.e., comprising) allows for coating layers on the zeolite as an additional component.

9. Regarding argument (ii), any colored particulate can be used as a pigment. Colored particles can be used to impart color to a formulation. Therefore, it's not unexpected to use a colored particle as a pigment. Further, upon inspection of the instant specification, the examiner did not find any evidence that the applicant stated the zeolite was acting as a pigment.

10. Regarding argument (iii), Lepilleur explicitly teaches zeolites with a water content of less than 10% (c. 5, ll. 30-35), which overlaps in scope with the instant application's

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claims. When using the zeolite in a chlorinated polyvinyl chloride composition, the water content is less than 8% (c. 7, ll. 2-5). Therefore, regardless of the solvation, Lepilleur intends for the zeolites to have the low water content.

11. Regarding argument (iv), the examiner humbly disagrees. The examiner concedes that Lepilleur *et alli* teaches a solvated composition. However, Spiller teaches a polyvinyl chloride powder coating. Powder form compositions have known advantages. For example, without solvent, powder formulations do not necessitate evaporation of volatile organics. Therefore, it would have been obvious to use Lepilleur's composition as the basis to create a powder coating, similar to Spiller *et alli*.

### **Conclusion**

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

13. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Taylor II whose telephone number is (571) 270-5457. The examiner can normally be reached on 7:30 am to 5:00 pm (off every other Friday).

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James W Taylor II/  
Examiner, Art Unit 1796

jwt2

/Vasu Jagannathan/  
Supervisory Patent Examiner, Art Unit 1796

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